

ARTICLE V. PEDDLERS, SOLICITORS, CANVASSERS AND ITINERANT VENDORS*

*Charter reference(s)--General powers of city, § 2.01.

State law reference(s)--Home solicitation transactions, V.T.C.A., Business and Commerce Code § 39.001 et seq.; authority of home rule city to license lawful businesses, occupations or callings, V.T.C.A., Local Government Code § 215.075.

DIVISION 1. GENERALLY

Sec. 18-331. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser means any individual, firm, organization or corporation, as well as their representatives, agents and employees, that engages in the business in the city of surveying, polling or otherwise conducting a query from a person in order to obtain information or opinions to be analyzed, from house to house or from place to place. This term shall include individuals connected with a noncommercial or nonprofit purpose or cause.

Commodities, goods and merchandise mean personal property of any nature whatsoever. Itinerant vendor means any individual, firm, organization or corporation, as well as their representatives, agents and employees, that engages in the business of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale or for the purpose of taking orders for the sale thereof, that displays, exhibits, sells or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or that temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure or any vacant lot or right-of-way in the city upon which such business is to be operated or conducted. This term shall include individuals connected with a noncommercial or nonprofit purpose or cause.

Noncommercial or nonprofit purpose or cause means a purpose or cause not created, existing or espoused for the generation of a profit or the remuneration of individuals, including but not limited to the religious or charitable solicitation of contributions, seeking political support or contributions, the promotion of civic causes, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

Peddler means any individual, firm, organization or corporation, as well as their representatives, agents and employees, that engages in the business in the city of selling, offering for sale or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made or to be made at the time of sale. Collection of the sales price at time of

sale or later is immaterial. This term shall include individuals connected with a noncommercial or nonprofit purpose or cause.

Services means the performance of labor for the benefit of another, or at another's command.

Solicitor means any individual, firm, organization or corporation, as well as their representatives, agents and employees, that engages in the business in the city of taking orders for future delivery of commodities or services from a person, or solicits subscriptions, orders, contributions from a person, from house to house or from place to place. This term shall include individuals connected with a noncommercial or nonprofit purpose or cause.

Temporary business means the business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of 90 days. Definite arrangements include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

(Code 1981, § 19-1)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 18-332. Exemptions.

- (a) A peddler, solicitor, canvasser or itinerant vendor who conducts activities, as defined in section 18-331, on the property of another by express prior invitation of the owner of such property is exempt from the coverage of this article.
- (b) A vendor who sells or exhibits for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in such commodities, goods, merchandise or services within the city is exempt from the coverage of this article.
- (c) Minors conducting fundraising activities who represent a youth organization, including but not limited to Boy Scouts, Girl Scouts, Little League groups and school groups, are exempt from the coverage of this article.
- (d) The canvassing or solicitation of funds or contributions of any kind by any organization or association from its members is exempt from the coverage of this article.
- (e) The canvassing or solicitation of funds or contributions of any kind by a person when such solicitation occurs on premises owned or controlled by the person soliciting or with the permission of the person who owns or controls the premises is exempt from the coverage of this article.

(Code 1981, § 19-2)

Sec. 18-333. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

- (1) Conduct a business or related activities in the city without a valid registration certificate as provided in this article.
 - (2) Conduct a business or related activities in the city without a valid identification card as provided in this article.
 - (3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.
 - (4) Alter a registration certificate or identification card issued by the city
 - (5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.
 - (6) Conduct a business or related activities within the city different than described in the registration statement required by section 18-351.
 - (7) Provide false, inaccurate or misleading information in the registration statement.
 - (8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.
 - (9) Conduct a business from a location within the city not listed in the registration statement.
 - (10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.
 - (11) Sell, assign or transfer, or attempt any sale, assignment or transfer, of a registration certificate or identification card.
 - (12) Conduct a business on any public sidewalk, public street right-of-way or other public property within the city without written authorization from the city.
 - (13) Conduct a business during hours other than those permitted by this article.
- (Code 1981, § 19-3)

Sec. 18-334. Hours of operation.

Business conducted in accordance with this article shall be carried out from 9:00 a.m. to 9:00 p.m., Central Standard Time.
(Code 1981, § 19-10)

Secs. 18-335--18-350. Reserved.

DIVISION 2. REGISTRATION

Sec. 18-351. Registration statement; term.

(a) Prior to commencement of business and related activities regulated by this article, a registration statement shall be completed on a form provided by the city secretary for that purpose, stating the following:

(1) The name of the applicant (the person who completes the registration statement).

(2) The height, weight, sex and hair color of the applicant.

(3) A recent color or black and white photograph of the applicant, no larger than two inches by two inches.

(4) The state sales tax identification number of the applicant.

(5) The permanent home address and telephone number, and local address and local telephone number if different.

(6) The applicant's driver's license number and state of issuance. The city secretary shall verify this information from the applicant's license. If the applicant has no driver's license, other similar identification shall be provided.

(7) The name of the individual, firm, company or organization represented, if any, and the permanent address and telephone number, and local address and telephone number, of any individual, firm, company or organization represented.

a. The last four communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month and year) business was conducted in each community listed.

b. If the applicant, or the individual, firm, company or organization represented, is a corporation incorporated under the laws of the state, the corporation shall provide a certified copy of the charter or articles of incorporation and a certificate of good standing.

c. If the applicant, or the individual, firm, company or organization represented, is a corporation incorporated under the laws of a state other than Texas, the corporation shall provide a certified copy of its certificate of authority to do business in the State of Texas and a certificate of good standing.

(8) Description, vehicle license number and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.

(9) The name, height, weight, sex, hair color, permanent home address, telephone number, and driver's license number and state of issuance for each individual who will be involved under the registration certificate. If any individual has no driver's license, other photographic identification shall be provided.

(10) A recent color or black and white photograph of each individual who is listed by the applicant, no larger than two inches by two inches.

(11) A description of the business and related activities to be conducted.

(12) Character and description of the commodities, goods, merchandise or services to be offered for sale or the purpose of the solicitation of contributions or support.

(13) The locations from which business and other activities will be conducted.

(b) Prior to issuance of the registration certificate and identification cards provided for in sections 18-353 and 18-354, each individual whose name is listed by the applicant shall present his driver's license or other identification in person to the city secretary for verification of the information provided by the applicant.

(c) Prior to issuance of the registration certificate and identification cards provided for in sections 18-353 and 18-354, the applicant and each individual whose name is listed by the applicant shall answer on the registration statement, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(d) Prior to issuance of the registration certificate and identification cards provided for in sections 18-353 and 18-354, the applicant and each individual whose name is listed by the applicant, shall, on the registration statement or an attachment thereto, separately list and explain the nature of each and every conviction, whether for felony or misdemeanor offenses, other than convictions for misdemeanor traffic law offenses, and give the state where the conviction occurred, and the year of such conviction.

(e) The term or period during which the business and activities will be conducted is not to exceed 180 days. Upon expiration of the 180-day period, or shorter period indicated by the applicant on the registration statement, the applicant must complete a new registration statement, in accordance with the requirements of this article, if renewal is desired.

(Code 1981, § 19-4)

Sec. 18-352. Fees.

Every registration statement submitted under this division shall be accompanied by a registration fee, as established by resolution of the city council and on file in the city secretary's office, to compensate the city for the cost of administration of this article. A

fee as established by resolution of the city council and on file in the city secretary's office shall be charged for replacement of a registration certificate.

(Code 1981, § 19-4)

Sec. 18-353. Registration certificate.

(a) Issuance. When all prerequisites of this article have been complied with, the city secretary shall initiate appropriate action to process the application required by this division. The city secretary shall either issue a registration certificate to the applicant, authorizing the sale, offer for sale, taking of orders for sale, solicitation and exhibition of commodities, funds, goods, merchandise or services, within ten working days after the applicant has fully complied with all applicable provisions of this article, subject to denial of the registration certificate as outlined in section 18-356, or shall notify the applicant of the denial thereof within ten working days.

(b) Notice of denial. Denial of a registration certificate shall be by written notice, specifically pointing out the reasons for the denial and what action will be required before a registration certificate can be issued, provided to the applicant by mailing a copy by regular mail to the applicant's local address, if provided, and otherwise to the permanent business or home address listed on the registration statement, and by affixing a copy of the written notice to the registration statement on file with the city.

(c) Term; renewal. The registration certificate shall state the effective term, and the beginning and ending dates, not to exceed 180 days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this article.

(d) Transfer. A registration certificate issued under this division shall be personal to the applicant and any identification card holder, and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate or identification card shall be grounds for revocation of the registration certificate.

(Code 1981, § 19-5)

Sec. 18-354. Issuance of identification cards; form and contents; transfer.

(a) Issuance; form and contents. In conjunction with issuance of a registration certificate under this division, the city secretary shall issue identification cards for each individual whose name is listed in the registration statement. The identification card shall be laminated in clear plastic; it shall have a metal clothing clip; it shall contain the photograph of the holder; and it shall state the holder's name, driver's license number and state of issuance, and the height, weight, sex and hair color of the card holder, the term of the permit, and the nature of the business and related activities. The card shall contain a conspicuous disclaimer of any endorsement by the city as follows: "THE CITY OF MISSOURI CITY, TEXAS, DOES NOT ENDORSE THESE ACTIVITIES."

(b) Transfer. An identification card issued in accordance with this article shall be personal to the card holder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued thereunder.

(c) Additional or replacement cards. The city secretary shall issue up to five identification cards with the registration certificate, without any additional charge. The applicant may obtain additional or replacement identification cards by paying to the city a fee as established by resolution of the city council and on file in the city secretary's office. (Code 1981, § 19-6)

Sec. 18-355. Display of identification card.

While conducting business covered by the registration certificate issued pursuant to this division, each identification card holder shall visibly display the identification card for identification, by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

(Code 1981, § 19-7)

Sec. 18-356. Grounds for denial or revocation of certificate.

The issuance of a registration certificate under this division may be denied or the certificate may be revoked if:

(1) Within the past year, any violation of this article, or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for, has been committed by any individual who would operate under the registration certificate;

(2) Any violation of this article, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate, is committed by any individual operating under the registration certificate during the original term or renewal thereof;

(3) False, inaccurate or misleading information is contained in the registration statement; or

(4) The applicant fails to fully comply with applicable provisions of this article. (Code 1981, § 19-9)

Sec. 18-357. Appeal of denial or revocation of certificate.

An applicant or other individual who has been denied a registration certificate or had a registration certificate revoked under this division may appeal that action to the city

manager by submitting a letter to the city secretary's office within ten days of the action complained of. A hearing on the denial will be scheduled. The city manager will render a decision on the appeal at the meeting during which the appeal is considered.
(Code 1981, § 19-11)

Sec. 18-358. Inspections.

A representative of the city designated by the chief of police shall have the authority to request admission to inspect, at a reasonable time, without advance notice, a business operating under a registration certificate issued pursuant to this article, to determine whether the permit holder's business and related activities are as represented in the registration statement. If such admission is denied, or if the chief of police deems it advisable, then the chief shall have the authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.
(Code 1981, § 19-8)

Secs. 18-359--18-380. Reserved.